

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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DATE FILED: 12/21/05

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ANGELA NEOFOTISTOS,

Plaintiff,

-against-

PLIVA, D.D., CROATIA, et al.,

Defendants.
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: 05 Civ. 4608 (BSJ) (THK)
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: REPORT AND RECOMMENDATION
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FROM: THEODORE H. KATZ, UNITED STATES MAGISTRATE JUDGE.

TO: HON. BARBARA S. JONES, UNITED STATES DISTRICT JUDGE.

This action, alleging assault and battery and unlawful gender violence, was filed on May 11, 2005. It was subsequently referred to this Court for general pretrial supervision. Over a period of several months, Plaintiff's counsel repeatedly represented to the Court that the case was in the process of settling and, therefore, Defendants never filed an Answer. Nevertheless, a stipulation of discontinuance was never filed, and Plaintiff's counsel has failed to respond to this Court's inquiries about the status of the settlement discussions. Therefore, on December 2, 2005, the Court issued an Order for Plaintiff to show cause, by December 12, 2005, why this action should not be dismissed. Plaintiff failed to respond to the Order. **Accordingly, this Court recommends that this action be dismissed with prejudice, pursuant to Rule 41 (b) of the Federal Rules of Civil Procedure, for failure to prosecute.**

Pursuant to 28 U.S.C. § 636(b)(1)© and Rule 72 of the Federal Rules of Civil Procedure, the parties shall have ten (10) days from

service of this report to file written objections. See also Fed. R. Civ. P. 6(a), (e). Such objections shall be filed with the Clerk of the Court, with extra copies delivered to the chambers of the Honorable Barbara S. Jones, United States District Judge, and to the chambers of the undersigned, Room 1660. Any requests for an extension of time for filing objections must be directed to Judge Jones. Failure to file objections will result in a waiver of those objections for purposes of appeal. See Thomas v. Arn, 474 U.S. 140, 155, 106 S. Ct. 466, 475 (1985); IUE AFL-CIO Pension Fund v. Herrmann, 9 F.3d 1049, 1054 (2d Cir. 1993); Frank v. Johnson, 968 F.2d 298, 300 (2d Cir. 1992); Small v. Sec'y of Health & Human Servs., 892 F.2d 15, 16 (2d Cir. 1989).

Respectfully submitted,



THEODORE H. KATZ
UNITED STATES MAGISTRATE JUDGE

Dated: December 21, 2005
New York, New York